

JAMES G. MACEY

IBLA 76-621

Decided August 10, 1976

Appeal from decisions of Nevada State Office, Bureau of Land Management, rejecting in whole or in part sodium prospecting permit applications, N-12137, N-12138 and N-12139.

Dismissed.

1. Rules of Practice: Appeals: Statement of Reasons -- Sodium Leases and Permits: Permits

A statement of reasons in support of an appeal which does not point out affirmatively in what respect the decision appealed from is in error, but merely asserts that earlier filed sodium permit applications were erroneously approved, does not meet the requirements of the Department's rules of practice and is properly dismissed.

2. Sodium Leases and Permits: Permits

It is proper to reject sodium permit applications to the extent that they conflict with prior filed applications which have ripened into permits.

APPEARANCES: James G. Macey, Salt Lake City, Utah, pro se.

OPINION BY ADMINISTRATIVE JUDGE FISHMAN

James G. Macey appeals from decisions of the Nevada State Office, Bureau of Land Management (BLM), dated March 30, 1976, rejecting sodium prospecting permit applications N-12137 and N-12139 in part and N-12138 in toto for the stated reason that the "lands described in your application have already been included in issued sodium prospecting permits * * *."

On October 3, 1975, appellant filed the following sodium prospecting permit applications: N-12137, embracing secs. 20, 22, 28 and 30, N-12138, embracing secs. 10, 14, 16 and 18 and N-12139, embracing secs. 26 and 36, all in T. 22 N., R. 29 E., M.D.M., Nevada.

However, on May 7, 1975, some 5 months earlier, W. J. Colman filed sodium prospecting permit applications N-11605 for secs. 10, 14, 22 and 26 of that township and N-11606 for secs. 16, 18, 20 and 28 of that township. Permits were issued pursuant to these applications on December 15, 1975, effective January 1, 1976.

Appellant asserts the following upon appeal:

Decision in rejecting subject applications was in error because of lands included in said applications are lands included in permits erroneously issued subsequently to the filing of applicants applications for Sodium Prospecting Permits.

Existing Sodium Prospecting Permits which were erroneously issued should be cancelled, & Reno Land Office decision rejecting Subject Permit Applications vacated and remanded to the Nevada Land Office for processing, to be offered to appellants.

[1] In essence, appellant argues that sodium prospecting permits N-11605 and N-11606 were erroneously issued, but fails to state the basis of his belief. An appellant cannot shift his burden of filing a definitive statement of reasons and thus require this Board to comb the record to find error in the decision below. See Duncan Miller, 21 IBLA 21 (1975); Duncan Miller, 20 IBLA 19 (1975). The appeal is subject to dismissal on that basis, and it is dismissed.

[2] Even if we were to consider the merits, our review of all the records involved impels the conclusion that the rejections were proper. 43 CFR 3511.1-6(a) prescribes that "Priority of applications will be determined in accordance with time of filing." Thus, Colman's applications, filed some 5 months before those of appellant, were properly accorded priority of consideration. Cf. David M. Miller, 15 IBLA 270 (1974). In the circumstances, appellant's offers were properly rejected.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the appeal is dismissed.

Frederick Fishman
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Newton Frishberg
Chief Administrative Judge

